

LAND TITLE CONSIDERATIONS

3328

(Sept 1999)

These are the factors that influence the extent of state investment in structural and other site improvements and the security necessary for continued site use. Policy requires that permanent structures be placed on land owned by the state under CDF jurisdiction, in preference to placing them on land where control is under the provisions of a lease or other form of contract.

There is wide variation in the difficulty encountered in securing the different degrees of title for land use. A license to use land may be easily obtained, whereas outright purchase may be extremely difficult or even impossible. These difficulties should receive careful consideration in the site selection process. Negotiations with an owner who is not willing to release any part of his land title can require considerable effort and cost. There may be times when it is preferable to spend more on developing an alternate site than to engage in protracted and expensive land negotiations or condemnation. See Exhibit 3324-3329 for checklist.

TITLE HOLDER

3328.1

(Sept. 1999)

Evidence regarding ownership of or other interests in land, is available from a number of sources:

- Personal contact with individuals who reside on or otherwise occupy the land. Also contacts with appropriate officials of water, power, gas, or telephone companies, and sewer and drainage districts.
- County Assessor's records provide names of individuals charged for payment of taxes, as well as evidence of unpaid obligations for improvements such as streets, sewers, water and drainage. Appraised and assessed values may also be obtained from this source.
- County Recorder's records provide more complete information concerning the degree of title held by individuals, through grant deeds, trust deeds, mortgages, easements, and other recorded documents. Locating specific documents may be somewhat difficult because of the manner of indexing. These records also include maps of subdivisions and records of surveys that influence the location of land boundaries.
- Title companies maintain records of land title transactions similar to those in county offices, but indexed to provide a high degree of accuracy when reporting the status of title for any specific parcel of land.
- For a nominal fee, the title company will provide a Preliminary Report of Title, listing record owners, restrictions to clear title, and status of taxes and liens, and will furnish copies of deeds, leases, easements and other documents affecting the title of a specific site.

A Preliminary Report of Title is a necessary part of the Site Suitability Report required in Phase III of the site selection process.

- Personal inspection of the site can reveal evidence of the following:
 - Unrecorded easements for surface drainage required for upland owners as evidenced by a swale or draw.
 - Access roads as shown by wheel tracks or fence gates.
 - Mineral claims as indicated by excavations.

PRELIMINARY REPORT OF TITLE

3328.2

(Sept. 1999)

Title reports are ordered by the Real Estate Services Division of the Department of General Services from companies willing to provide this service in accordance with the terms of a current contract if in place.

The Preliminary Report of Title should be ordered after surveys are completed to provide accurate descriptions of the site and easements desired. However, if boundaries or easements cannot be properly located or described without reference to existing deeds or easements, then a preliminary report should be ordered first. In cases where a report is desired prior to the survey, it can be ordered for a portion of land large enough to include all anticipated development. Later, an amended report can be obtained, at nominal additional cost, to be included with the Site Suitability Report.

Title Reports shall provide the following:

- Description of all easements and rights appurtenant to the property.
- Names and addresses of the fee owners, with copies of vesting documents, recording information, and Internal Revenue Stamps, if any.
- Copies of all documents containing private agreements, covenants, conditions or restrictions affecting the property.
- A plat outlining the boundaries of the parcel CDF desires, circumscribed by the boundaries of a larger fee ownership when purchase of only a portion of such larger ownership is anticipated.

PROPERTY SURVEYS

3328.3

(Sept. 1999)

Surveys provide the measurements necessary to establish existing record boundaries whenever the proposed sites lie adjacent to lines previously described in a deed or an easement.

Street and highway right-of-way lines must be established (a) from the nearest available monuments originally set to mark right-of-way or center line or (b) by reference to deed ties to section corners if this provides a location which conforms to constructed features such as fences, curbs or other street improvements.

Linear measurements must be made to the hundredth of a foot and angular measurements to one-half minute. The maximum allowable error in a closed traverse is one part in 5000. A maximum probable error for any position is less than three-tenths of a foot on long traverses, but for traverses shorter than 1500 feet, the 1:5000 factor will control.

Easements necessary for the use of the site must be carefully located to assure satisfactory and economical construction of the intended accessory improvements. These include roads, pipelines, spring diversions, water storage tanks, and telephone or power lines with anchors. Properly engineered locations require consideration of land values (severance), topography, and soil characteristics.

BOUNDARY DESCRIPTION

3328.4

(Sept. 1999)

The description is an important part of any document transferring an interest in real property. Precision of statement is necessary to avoid misunderstanding. Land areas are usually described by narrative (metes and bounds), drawings (subdivision maps), or a combination of the two. An area that permits description by reference to a map of record, such as a numbered lot in a subdivision, can be accurately described with a minimum number of words. A similar area, not shown on a record map, requires much verbiage to identify or location with respect to adjoining property. A description may be broken into two or more parts or parcels for convenience of form, or for separating fee parcels and easement parcels, or for other reasons, such as continuing the identity of several smaller parcels making up one large tract. The description should be prepared by a licensed land surveyor or qualified registered civil engineer.

The first paragraph should identify the general area in which the parcels are located (Section, Township, Range, Base and Meridian; Lot, Block and Subdivision name; City, County, and State) all arranged to eliminate lengthy references to controlling record maps, deeds, or monuments.

The main body should be brief but still provide positive identification of the area described. It must be remembered, however, that a description providing positive identification for title purposes may not, of itself alone, provide the data required for positive physical location on the ground; therefore, it is important to consider both requirements in writing the description.

The description must also contain all necessary references to prior recorded descriptions for all lines and/or corners that are common to the proposed site and adjoining parcels, especially those owned by persons other than the grantor of the proposed site. A sample boundary description is shown in Legal Description Exhibit ([see exhibit](#)).

FIELD INSPECTION OF PROPOSED SITE (S)

3328.5

(Sept. 1999)

Inspection in the field of all proposed field sites is to be done by a team composed of DGS and CDF Technical Services and Region and/or Unit personnel to confirm visible evidence of land use or occupation and general suitability. It requires care on the part of the reviewers to recognize all of the evidence, some of which is occasionally vague and indistinct.

The inspection must include evaluation of the record easements listed in the title report and the unrecorded easements or encroachments that can be determined only by a careful physical inspection of the site and adjacent lands.

The boundaries of record easements might not be symmetrical with a constructed facility. A power line, for instance, may be constructed along one side rather than along the centerline of the described easement. Although these instances are the exception rather than the rule, the reviewers should consider such a possibility and make certain to establish a relation between the location of the described easement and the site boundaries and constructed improvement.

Evidence of an underground pipeline or cable easement may be limited to a posted sign and/or a slight surface depression along the route of the line.

Evidence of a road easement might merely be a graded road section, a gate in a fence, or indistinct wheel tracks through pasture grass. Evidence of a drainage easement could very well be limited to a well-defined stream channel or a barely noticeable swale (the course followed by surface water in runoff from higher ground). Evidence of easements for overhead telephone or power lines is usually made obvious by the relatively close spacing of the supporting poles, but occasionally in mountainous country the spans are longer, crossing valleys with supports on ridges and wires high above ground. Many old ground-return telephone lines used trees for support and crossed depressed areas high enough that they would not be noticed by a casual inspection. Evidence of possession may be visible in the form of survey monuments, boundary fences, buildings, or other structural improvements. These may or may not coincide with those locations determined by an accurate survey of the described parcel. The extent and impact of these differences should be considered during the inspection.

**FORMS AND/OR FORMS SAMPLES: RETURN TO ISSUANCE HOME PAGE
FOR FORMS/FORMS SAMPLES SITE LINK.**

([see next section](#))

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